

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT

NASHVILLE, TENNESSEE

January 11, 2002

IN RE:

PETITION FOR AUTHORITY TO TRANSFER CONTROL  
OF ENHANCED COMMUNICATIONS NETWORK, INC.  
TO PACIFIC TELECOM, INC.

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DOCKET NO.  
01-00986

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ORDER APPROVING TRANSFER OF AUTHORITY

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This matter came before the Tennessee Regulatory Authority (the "Authority") at the regularly scheduled Authority Conference held on December 4, 2001 for consideration of the *Petition* (the "*Petition*") of Enhanced Communications Network, Inc. ("ECN") pursuant to the provisions of Tenn. Code Ann. § 65-4-113, for approval of a transfer of authority to provide utility services.

**Requirement of and Standards for Authority Approval**

Tenn. Code Ann. § 65-4-113 requires a public utility to obtain Authority approval to transfer its authority to provide utility services. Tenn. Code Ann. § 65-4-113(a) provides as follows:

(a) No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

Tenn. Code Ann. § 65-4-113(b) provides the standards by which the Authority shall consider an application for transfer of authority, in pertinent part, as follows:

(b) Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant

factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. . . .<sup>1</sup>

### **The Petition**

According to the *Petition*, which was filed on November 9, 2001, ECN was granted authority to provide intrastate telecommunications services as a reseller by Order dated June 8, 1999 in Docket No. 99-00239. In its *Petition*, ECN requests that the Authority approve, pursuant to Tenn. Code Ann. § 65-4-113, the transfer of its certification from the current owner of one hundred percent (100%) of ECN's stock, to Pacific Telecom, Inc. ("PTI"). PTI, a Delaware corporation with its principal office located in West Covina, California, will acquire one hundred percent (100%) of the outstanding capital stock of ECN.

The *Petition* states that PTI is financially qualified to acquire control of ECN and its business. The *Petition* states that under new ownership, ECN will be led by a highly qualified management team.

### **Public Interest Considerations**

The *Petition* states that the transaction will enhance both PTI's and ECN's ability to compete in the market for telecommunications services, in Tennessee and elsewhere, through increased economies of scale. The *Petition* further states that ECN will gain access to additional financial resources, allowing it to introduce new products and services and to respond to competition.

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<sup>1</sup> Though ECN will remain intact and will continue to operate pursuant to its current certification, ultimate ownership and control of ECN will change. Tenn. Code Ann. § 65-4-101 defines a public utility, as it pertains to telecommunications utilities, as:

[E]very individual, copartnership, association, corporation, or joint stock company, its lessees, trustees, or receivers, appointed by any court whatsoever, that own, operate, manage or control, within the state, any...telecommunications services... plant or equipment, affected by and dedicated to the public use...

Since the controlling interest in the corporation that owns, manages, and controls ECN's telecommunications assets will change, this purchase agreement includes a tacit transfer of ECN's certification.


## **Findings**

The Directors of the Authority considered this matter at the December 4, 2001 Authority Conference. Based upon careful consideration of the *Petition*, the Authority finds and concludes as follows:

1. The Authority has jurisdiction over the subject matter of this *Petition* pursuant to Tenn. Code Ann. § 65-4-113;
2. Enhanced Communications Network, Inc. has been granted authority to provide telecommunications services in Tennessee;
3. Ownership of Enhanced Communications Network, Inc. will be transferred to Pacific Telecom, Inc., resulting in a transfer of the authority granted Enhanced Communications Network, Inc. to provide utility services; and
4. Approval of the transfer of authority is appropriate pursuant to the provisions of Tenn. Code Ann. § 65-4-113.

## **IT IS THEREFORE ORDERED THAT:**

The *Petition* of Enhanced Communications Network, Inc. for approval of the transfer of authority described herein is approved.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary